

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION**

FILED BY \_\_\_\_\_ D.C.  
05 MAY -6 PM 2:47

ROBERT R. DI TROLIO  
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**MARY BETH FLOWERS,**

**Plaintiff,**

**v.**

**MEMPHIS SLEEP LABS, INC.,**

**Defendant.**

**NO. 04-1287 T/An**

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**ORDER GRANTING MOTION TO AMEND PARTIES, TO AMEND COMPLAINT  
AND TO HOLD SUMMARY JUDGMENT IN ABEYANCE**

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Before the Court is Plaintiff's Motion to Amend Parties, to Amend Complaint and to Hold Summary Judgment in Abeyance filed on April 1, 2005. United States District Judge James D. Todd referred the portion of Plaintiff's Motion seeking the Court to Hold Summary Judgment in Abeyance to the Magistrate Judge for determination.<sup>1</sup> For the reasons set forth below, the Motion is **GRANTED**.

**BACKGROUND**

Plaintiff first seeks leave of the Court to amend the parties in this lawsuit. Specifically, Plaintiff wishes to name Louviere Enterprises, Inc. in place of the current Defendant, Memphis Sleep Labs, Inc., d/b/a Mid-South Sleep Disorder Clinic. Defendant does not oppose Plaintiff's request to amend the parties. Plaintiff also seeks leave to amend her Complaint to allege that five separate sleep disorder clinics operated from the Jackson, Tennessee office are in essence a

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<sup>1</sup>The Magistrate Judge may consider the remainder of Plaintiff's Motion without a specific Order of Reference.

single employer within the meaning of the American with Disabilities Act. Plaintiff finally requests that the Court hold Defendant's summary judgment in abeyance pending further discovery. Plaintiff argues she was unfamiliar with the ownership structure of Louviere Enterprises during the course of her employment; therefore, Plaintiff requests that the Court afford her additional time to conduct discovery.

### **ANALYSIS**

A pleading may be amended "only by leave of court . . . and leave shall be freely given when justice so requires." Fed. R. Civ. P. 15(a). "In deciding whether to allow an amendment, the court should consider the delay in filing, the lack of notice to the opposing party, bad faith by the moving party, repeated failure to cure deficiencies by previous amendments, undue prejudice to the opposing party, and futility of amendment." *Perkins v. Am. Elec. Power Fuel Supply, Inc.*, 246 F.3d 593, 605 (6th Cir. 2001).

In this matter, Plaintiff has shown good cause why she should be allowed to amend the parties to this action and to amend her Complaint. Furthermore, the Court can see no reason why the proposed amendments would be prejudicial to Defendant. As such, for good cause shown and because leave to amend should be freely granted, the Motion to Amend Parties and the Motion to Amend Complaint is **GRANTED**. Plaintiff shall file her Amended Complaint within 11 days of entry of this Order. Moreover, for good cause shown and because Defendant does not object to Plaintiff's Motion to Hold Summary Judgment in Abeyance, the Motion to Hold Summary Judgment in Abeyance is **GRANTED**. Plaintiff shall be given an additional 60 days from the date of entry of this Order to respond to Defendant's Motion for Summary Judgment.

Pursuant to the Order of Reference, any objections to this Order shall be made in writing within ten days after service of this Order and shall set forth with particularity those portions of the Order objected to and the reasons for those objections.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
S. THOMAS ANDERSON  
UNITED STATES MAGISTRATE JUDGE

Date: May 06, 2005



## Notice of Distribution

This notice confirms a copy of the document docketed as number 21 in case 1:04-CV-01287 was distributed by fax, mail, or direct printing on May 9, 2005 to the parties listed.

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Honorable James Todd  
US DISTRICT COURT